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is a fundamental principle of our own constitution. To the extent that the laborer is not given the same security to his property by the law that is granted to the landowner or capitalist, to that extent discrimination is exercised against him. It is an essential element of equal protection of the laws that each person shall possess the unhampered right to assert in the courts his rights, without discrimination, by the same processes against those who wrong him as are open to every other person. The courts must be open to all upon the same terms. No obstacles can be thrown in the way of some which are not interposed in the path of others. Recourse to the law by all alike without partiality or favor, for the vindication of rights and the redress of wrongs, is essential to equality before the law (citing cases).

Doubtless the Legislature may make many classifications in laws which regulate conduct and to some extent restrict freedom. So long as these have some rational connection with what may be thought to be the public health, safety of morals, or in a restricted sense, 'so as not to include everything that might be enacted on grounds of mere expediency,' the public welfare, they offend no constitutional provision (*Commonwealth v. Strauss*, 191 Mass. 545, 550, 78 N. E. 136, 11 L. R. A., N. S., 968, 6 Ann. Cas. 842). Weekly payment laws, employers' liability acts, workmen's compensation acts, inspection laws based on number of employees, and numerous statutes similar in principle have been upheld (citing cases). But all these and like statutes are quite different from one declaring that the laboring man either alone or in association with his fellows shall, as to his property right to work, be put on a footing of inferiority as compared with owners of other kinds of property when he appears in court respecting that property right. It is primary and fundamental in any correct conception of justice that the laboring man stands on a level equal with all others before the courts. Whatever may be his social or economic condition outside, when he enters the court the law can permit no rule to fetter him in the prosecution of his claims or the preservation of his rights which does not apply equally to all others respecting the same kinds of claims and rights."

Negligence—Gas—Death—Asphyxiation—Due Care of Decedent—
Ashton v. Fall River Gas Works Co., 111 N. E. 415.—The principal case was an action for death by asphyxiation, alleged to be due to defendant gas company's negligence in serving two tenements in a building from one meter. Plaintiff's evidence showed that decedent moved into one tenement, and while waiting to have the gas turned on the defendant turned on the gas for the other jointly served tenant, whereby, without decedent's knowledge, the gas was turned onto his tenement. The following morning decedent was found in a chair dead, with a gas fixture which he had unscrewed in his hands and

a rag and some cleaning material on a table in front of him. The doors and windows were closed, but not locked, and there was nothing to show how much or when the gas escaped, or what, if any, precautions decedent took as to ascertaining whether the gas was on before removing the fixture. It was held that, there being nothing but conjecture regarding decedent's exercise of due care for his own safety, judgment for plaintiff could not stand. The court said in part:

"Assuming that the defendant was negligent in permitting the gas to flow through the pipes of the lower east tenement when it was turned on for the Connolly tenement, and, by the peculiar arrangement of the pipes and meter, misleading the occupant of the east tenement to suppose there was no gas in his premises, and assuming that on the night before the fatality the deceased was misled and believed his tenement to be then without a supply of gas, still we are unable to find any evidence of that attention to his own safety and protection required at common law. If that is so, then there is none within the statute under which this action is brought.

Even if the doors were unlocked, we can find nothing in the record indicating any attempt on the part of the deceased to avoid the danger or to secure assistance. It may be that the gas escaped in such volume, was so insidious and he was so suddenly overcome that it was impossible to get away from the poison, open the door or secure assistance, but we have no evidence whatever bearing on these questions. We can only conjecture. There is nothing showing the amount of gas which escaped, or within what time he was rendered insensible. Even if these facts were established, we do not decide there then would be sufficient evidence to show the exercise of proper care. On Friday he supposed his tenement was free from gas. Assuming he was still ignorant of existing conditions on Saturday morning, there is nothing to show that he took any precautions whatever before he unscrewed the gas fixture, or why it was necessary to remove this fixture, even if he wished to clean it. In short, there is nothing indicating any effort on the part of the deceased to protect or save himself, and no circumstances appear showing how the accident happened from which an inference can be drawn establishing his due care. What happened between 9 o'clock in the morning and the time he was found dead is 'wholly a matter of conjecture, where one hypothesis is as good as another, and therefore no inference of due care can be drawn affirmatively' (*Braleay, J., Chester v. Murtfeld*, 216 Mass. 537, 539, 104 N. E. 483; *Lydon v. Edison Elec. Ill. Co.*, 209 Mass. 529, 95 N. E. 936; *McDonald v. Edison Elec. Ill. Co.*, 208 Mass. 199, 94 N. E. 259)."